

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Reserved on: 24.09.2024
Pronounced on: 25.09.2024

1. CRR(F)-208-2020 (O&M)
Sunita Soni and others

... Petitioners

Vs.

Suresh Soni

... Respondent

2. CRR(F)-144-2020 (O&M)
Suresh Soni

... Petitioner

Vs.

Sunita Soni and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sanchit Punia, Advocate
for the petitioners (in CRR(F)-208-2020) and
for the respondents (in CRR(F)-144-2020).

Mr. Parmod Chauhan, Advocate for
Mr. Sudhir Makkar, Advocate
for the petitioner (in CRR(F)-144-2020) and
for the respondent (in CRR(F)-208-2020).



HARPREET SINGH BRAR, J. (ORAL)

1. This common judgment shall dispose of both the aforementioned revision petitions, as they arise out of identical factual matrix. However, for the sake of brevity, the facts are taken from CRR(F)-208-2020.

2. Both these revision petitions are preferred against the impugned judgment dated 30.10.2019 passed by learned Principal Judge, Family Court, Panchkula, vide which petition under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') filed by wife and children was allowed and maintenance amount of Rs.25,000/- per month was awarded to be paid to them i.e. *Rs.10,000/- per month to wife and Rs.5,000/- per month each to three children*. However, it was clarified that petitioner No.4-son shall be entitled to maintenance amount till he attains the age of majority.

3. The marriage between Sunita Soni and Suresh Soni was solemnized on 19.07.1997 according to Hindu rites and rituals. The marriage was consummated and three children i.e. two daughters namely Diksha and Hensi Soney and one son namely Dev Soni were born. However, matrimonial dispute ensued between the couple and Sunita Soni and her children filed a petition under Section 125 Cr.P.C. seeking maintenance of Rs.1.00 lac per month and respondent-husband Suresh Soni filed a reply and



contested the claim made by them. Learned Family Court, vide impugned judgment dated 30.10.2019, granted maintenance allowance of Rs.25,000/- per month in favour of wife and three children (*Rs.10,000/- per month to wife and Rs.5,000/- per month each to three children*). However, it was clarified that petitioner No.4-son shall be entitled to maintenance amount till he attains the age of majority. Feeling aggrieved, wife and children have filed CRR(F)-208-2020 for enhancement of the amount of maintenance, while husband has approached this Court for setting aside the impugned judgment, by way of filing CRR(F)-144-2020.

3. Learned counsel for the petitioners i.e. wife and children, in CRR(F)-208-2020, *inter alia*, contends that the maintenance amount of Rs.25,000/- per month granted to the petitioners is not in consonance with actual income of respondent-husband, as he is Director of M/s Toshawar Buildwell Private Ltd. Company, which is a construction company and is earning around Rs.40.00 lacs per annum and he is having three flats and from giving them on rent, he is getting Rs.50,000/- per month. As such, the maintenance amount of Rs.25,000/- per month granted by learned Family Court deserves to be enhanced to some higher amount.

4. Learned counsel for the petitioner i.e. husband, in CRR(F)-144-2020, *inter alia*, contends that learned Family Court fell into grave error, while granting maintenance to respondents i.e. wife and children.



Respondent No.1 left the company of the petitioner at her own without any justifiable cause. She is running a boutique and is earning very handsome income and she is capable to maintain herself and her children. The amount of maintenance awarded by learned Family Court is on higher side.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds no force in the arguments advanced on behalf of the parties.

6. The object and purpose behind granting maintenance is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of failure of marriage. At the same time, a just and careful balance must be struck to ensure that this provision does not degenerate into a weapon to punish the other spouse. The Courts are required to conduct the maintenance proceedings, while being alive to the legislative intent behind the provision under Section 125 Cr.P.C in its true spirit, which is to provide speedy assistance and social justice to women, children and infirm parents. The provisions of Section 125 Cr.P.C. were enacted as a measure to further social justice and protect dependent women, children and parents, which also fall within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India.

7. A three-Judge Bench of the Hon'ble Supreme Court in ***Vimala (K.) Vs. Veeraswamy (K.) (1991) 2 SCC 375***, speaking through Justice



Fatima Beevi, opined as follows:

“3. Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife.”

8. Further, a two-Judge Bench of the Hon’ble Supreme Court in ***Kirtikant D. Vadodaria Vs. State of Gujarat (1996) 4 SCC 479***, speaking through Justice Faizan Uddin, opined as follows:

“15.... While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation.”

9. Another objective the legislature has sought to achieve by this provision is to provide maintenance *pendente lite* to the applicant spouse during proceedings emerging out of matrimonial disputes so that she/he can maintain herself/himself, have sufficient funds to pursue the litigation, and



not suffer at the instance of the affluent spouse.

10. There is a general tendency on the part of the wife to amplify her needs and the husband to conceal his actual income, making it difficult to determine the earning capacity of the rival claimants with exactitude. The rival claimants must scrupulously bring on record their actual respective earning capacities in order for the Court to arrive at quantum of maintenance which is just and fair in terms of principle of equistatus. The quantum of maintenance must be justifiable and realistic to provide succour to the dependent spouse and also to avoid occurrence of the two extremes of the maintenance being either paltry or extravagant, ensuring that neither of the two is reduced to a life of penury. The adequacy of the maintenance allowance has to be determined by the yardstick of the dependent spouse being able to lead a life of reasonable comfort.

11. While dealing with the issue of maintenance *in extenso*, a two Judge Bench of the Hon'ble Supreme Court in ***Rajnesh Vs. Neha and another, (2021) 2 SCC 324*** laid down the criteria for determining quantum of maintenance and issued the following directions:

"VI Final Directions

130. In view of the foregoing discussion as contained in Part B -1 to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India:

2024:PHHC:127445

***(a) Issue of overlapping jurisdiction***

131. To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:

- (i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;*
- (ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;*
- (iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding*

(b) Payment of Interim Maintenance

132. The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrates Court, as the case may be, throughout the country.

(c) Criteria for determining the quantum of maintenance

133. For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B III of the judgment.

134. The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the

2024:PHHC:127445



facts and circumstances of a case.

(d) Date from which maintenance is to be awarded

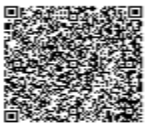
135. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B-IV above.

(e) Enforcement/Execution of orders of maintenance

136. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C may be applicable. The arder of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC more particularly Sections 51, 55, 58, 60 r.w. Order XXI."

12. From perusal of the record, it transpires that respondent-husband was running a company M/s Toshawar Buildwell Private Ltd. and was earning crores of rupees. As per testimonies of PW2, PW3 & PW4, officials from different banks, there were huge transactions in the bank account of the respondent-husband from the years 2013 to 2019. Perusal of statement of personal bank account of the respondent-husband for the years 2016-2017, 2017-2018, 2018-2019 and upto June, 2019 reveals that lakhs of rupees were deposited during this period. As per the respondent-husband, his company suffered huge losses. After considering all the material brought on record, learned Family Court rightly observed that even if the company of the respondent-husband suffered huge losses, he might be earning about Rs.50,000/- per month. Further, perusal of the impugned judgment passed by

2024:PHHC:127445



learned Family Court makes it evident that the Court below has duly considered the material placed before it for determining the quantum of maintenance. A careful and just balance has been drawn, keeping in view the spiralling inflation rates and high cost of living corresponding to the reasonable needs of the wife and children. Learned counsel for the petitioner(s) have not been able to indicate any perversity in the impugned judgment, which warrants interference by this Court. Accordingly, both these petitions are dismissed being bereft of any merit.

[HARPREET SINGH BRAR]
JUDGE

25.09.2024
vishnu

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No